

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

AMERICA’S COLLECTIBLES)	
NETWORK, INC. d/b/a Jewelry)	
Television [®] ,)	
)	
Plaintiff,)	
)	No. 3:09-cv-00143
v.)	McDonough/Guyton
)	
STERLING COMMERCE (AMERICA),)	
INC.,)	
)	
Defendant.)	

**MOTION TO ALTER OR AMEND
JUDGMENT ORDER**

Pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, Plaintiff America’s Collectibles Network, Inc. d/b/a Jewelry Television (“JTV”) moves the Court to alter or amend its Judgment Order (Doc. 868) to award prejudgment interest to JTV in an amount not less than 5.4%, pursuant to Tenn. Code Ann. §47-14-123, instead of the current award of 1.22%. A prejudgment interest rate of 5.4% reflects JTV’s average cost of debt capital during the applicable period, as specified in the Declaration of Crawford A. Wagner (“Wagner Declaration”) attached hereto as Exhibit A.

The Wagner Declaration is supplementary to the Declaration of Charles M. Phillips (“Phillips Declaration”) (Doc. 854-1) to include in JTV’s cost of debt capital the costs associated with that debt, including bank fees, legal fees and warrants paid and granted to procure and document the credits.

While JTV has argued for interest at the maximum rate permitted by Tenn. Code Ann. §47-14-123, and does not waive that argument, JTV requests that the Court's award of prejudgment interest reflect a rate to include JTV's average cost of debt capital during the period in question, as the minimum prejudgment interest rate necessary to satisfy the principles of equity and the goal of the Tennessee statute to adequately compensate a victim, particularly a fraud victim such as JTV.

Accordingly, this Motion requests the Court to alter or amend its Judgment Order to provide for JTV's recovery of prejudgment interest at the rate of 5.4% per year, rather than 1.22% per year. In the alternative, JTV requests that the Judgment be corrected under Federal Rule of Civil Procedure 60(a) to reflect an interest rate of 5.4% instead of 1.22%.

Respectfully submitted this 2nd day of November, 2017.

/s/ David J. Shapiro

David J. Shapiro (DS8639)
THE LAW OFFICES OF DAVID J. SHAPIRO, P.C.
43 West 43rd Street, Suite 45
New York, NY 10036
212-709-8047 (Telephone)
917-210-3236 (Facsimile)
dshapiro@shapirojuris.com
*Counsel for Plaintiff America's Collectibles, Inc.,
d/b/a Jewelry Television[®]*

/s/ W. Edward Shipe

W. Edward Shipe, BPR #23887
WAGNER, MYERS & SANGER, P.C.
800 S. Gay Street, Suite 1801
Knoxville, TN 37929
865.525.4600 (Telephone)
865.291.0419 (Facsimile)
eshipe@wmshpc.com
*Counsel for Plaintiff America's Collectibles,
Inc., d/b/a Jewelry Television[®]*

/s/Jim Wetwiska

Jim Wetwiska, admitted *pro hac vice*
Holli Pryor-Baze, admitted *pro hac vice*
AKIN GUMP STRAUSS HAUER & FELD LLP
1111 Louisiana Street, 44th Floor
713-220-5899 (Telephone)
713-236-0822 (Facsimile)
jwetwiska@akingump.com
hpryorbaze@akingump.com
*Counsel for Plaintiff America's Collectibles, Inc.,
d/b/a Jewelry Television[®]*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail.

Parties may access this filing through the Court's electronic filing system.

/s/Holli Pryor-Baze
Holli Pryor-Baze